



FILED

Feb 20 2009, 9:29 am

Beverly Smith

CLERK
of the supreme court,
court of appeals and
tax court

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

TEYA ANDERSON-RAMSEY,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A04-0808-CR-459
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

February 20, 2009

FRIEDLANDER, Judge

Following a bench trial, Teya Anderson-Ramsey was convicted of Criminal Recklessness as a class B misdemeanor and Resisting Law Enforcement as a class A misdemeanor. On appeal, Anderson-Ramsey challenges that portion of her sentence directing her to pay a child abuse prevention fee of one hundred dollars (\$100.00).

We reverse.

Following an incident on November 19, 2007, the State charged Anderson-Ramsey with neglect of a dependent, a class D felony, resisting law enforcement as a class A misdemeanor, and battery on a police officer, a class A misdemeanor. A bench trial was held on July 7, 2008, at the conclusion of which the trial court found Anderson-Ramsey guilty of criminal recklessness, a class B misdemeanor, as a lesser included offense of neglect of a dependent; the court also found Anderson-Ramsey guilty of resisting law enforcement as a class A misdemeanor.¹ On the same date, the trial court sentenced Anderson-Ramsey to 90 days incarceration for the class B misdemeanor criminal recklessness conviction and to 180 days incarceration for the class A resisting law enforcement conviction, the sentences to run concurrently. The trial court ordered 8 days of each sentence executed and suspended the remaining time to probation. At the sentencing hearing, the trial court stated:

I am finding you indigent for all fines and fees. You will not have to pay a dime to probation for any of this, not even for fines or court costs or probation monitoring. I am also ordering . . . make sure on the order setting condition of probation, to be placed in an indigent spot for parenting classes. All right? I don't want finances to be an obstacle to this.

¹ The trial court granted Anderson-Ramsey's motion for judgment on the evidence as to the charge of battery on a police officer.

Transcript at 132. According to the chronological case summary and an entry into the Justice Information System for Indianapolis and Marion County, Anderson-Ramsey was assessed a \$100.00 child abuse prevention fee.² Anderson-Ramsey appeals, arguing this was improper.

Ind. Code Ann. § 33-37-5-12 (West, Premise through 2008 2nd Regular Sess.), provides that a person convicted of certain enumerated offenses against a victim under the age of eighteen shall be ordered to pay a child abuse prevention fee. Anderson-Ramsey correctly points out, and the State does not dispute, that the offenses for which Anderson-Ramsey was convicted are not included in the enumerated offenses.³ We agree with Anderson-Ramsey and the State that the child abuse prevention fee could not be assessed upon either of Anderson-Ramsey's convictions. We therefore reverse that part of the trial court's sentence assessing the \$100 child abuse prevention fee against Anderson-Ramsey. The trial court is directed to vacate this assessment.⁴

We reverse.

MAY, J., and BRADFORD, J., concur.

² Contrary to the State's assertion, it is unclear from the trial court's remarks at sentencing (as set forth above) that the trial court did not intend to assess this fee. What is clear from the trial court's statement is that the trial court did not intend for Anderson-Ramsey to actually pay this fee as a condition of probation.

³ Although originally charged with neglect of a dependent, an enumerated offense under I.C. § 33-37-5-12, Anderson-Ramsey was ultimately convicted of the lesser included offense of class B misdemeanor criminal recklessness, which is not an enumerated offense.

⁴ The error may be linked to an indication on the abstract of judgment that Anderson-Ramsey was convicted of neglect of a dependent as a class D felony. In the comments section of the abstract of judgment, however, it is correctly noted that Anderson-Ramsey was convicted of the lesser included offense of class B misdemeanor criminal recklessness.